

January 20, 1998

Dear State Medicaid Director:

This letter is one in a series of letters that provides guidance on the implementation of the Balanced Budget Act of 1997 (BBA). The BBA contains numerous provisions relating specifically to managed care. In order to provide guidance on these as quickly as possible, we are issuing a number of managed care State letters (list of those already issued is attached.) This letter is the sixth in this managed care series.

The purpose of this letter is to provide initial guidance to States on changes regarding external independent review of managed care activities required as a result of the BBA, specifically the higher Federal Financial Participation (FFP) rate for external quality review. This guidance is associated with sections 4705(a) and (b) of the BBA.

Prior to the effective date of the external quality review provisions in the BBA, States were required to contract with an external independent entity to perform an annual review of the quality of services furnished by each contracting health maintenance organization (HMO) and health insuring organization (HIO). The law specified the types of entities which were allowed to perform the review: a Peer Review Organization (PRO), a PRO-like entity, or a private accreditation body; however, it did not prescribe specific processes either for identifying qualified review entities or for conducting quality reviews. Pre-BBA law also specified that the FFP was 75 percent for States contracting for HMO/HIO quality reviews with PROs or PRO-like entities, and 50 percent FFP for any other reviews performed by PRO-like entities, or reviews performed by private accreditation bodies.

The external quality review provisions in section 4705 of the BBA now require HCFA, in consultation with States, to determine what constitutes an external independent review under the BBA and who can perform it. Additionally, working with the National Governors' Association, HCFA must develop the protocols to be used in these reviews. Finally, HCFA must provide 75 percent FFP to all qualified review entities that perform these reviews.

Before States can receive FFP matching at the higher rate for all qualified review entities, HCFA must establish a method to identify which entities are qualified to perform the quality reviews required under the BBA. This methodology must be developed in consultation with States, and will be promulgated in regulations.

Until the method for identifying qualified review entities is established, States should continue to operate their external independent review activities as required prior to the BBA. States will continue to receive 75% FFP for external quality reviews performed by PROs and PRO-like entities, and 50% FFP for quality reviews performed by accreditation bodies. You will be notified when the higher FFP rate will be available for external quality reviews performed by all qualified review entities.

If members of your staff have any questions regarding the information in this letter or the BBA provisions described, please have them contact Kathy Headen of my staff on (410) 786-6865, or by e-mail at kheaden@hcfa.gov.

Sincerely,

/s/

Sally K. Richardson
Director
Center for Medicaid and State Operations

Attachments

cc:

All HCFA Regional Administrators
All HCFA Associate Regional Administrators for Medicaid and State Operations
HCFA Press Office
Lee Partridge - American Public Welfare Association
Jennifer Baxendell - National Governors' Association
Joy Wilson - National Conference of State Legislatures

Summary of Medicaid External Review Provisions in the Balanced Budget Act (BBA) of 1997

External Independent Review of Managed Care Activities (BBA 4705(a) and (b) - SSA 1932(c)(2) and 1903(a)(3)(C))

Section 4705(a) of the BBA created section 1932(c)(2)(A) of the Social Security Act (Act). This new law requires States that contract with Medicaid managed care organizations (MCOs) under section 1903(m) of the Act to do the following:

- (i) provide for an annual external independent review conducted by a qualified independent entity of the quality outcomes and timeliness of, and access to, the items and services covered under the MCO's contract;
- (ii) in consultation with the States, establish a method for identifying qualified review entities; and
- (iii) coordinate with the National Governors' Association to contract with an independent quality review organization to develop protocols to be used in external independent reviews conducted on and after January 1, 1999.

The above provisions apply to contracts entered into or renewed on October 1, 1997 or later, unless otherwise noted.

Section 4705(b) of the BBA amended section 1903(a)(3)(C) of the Act to permit HCFA to pay 75 percent of the costs incurred that are attributable to the performance of the independent external reviews conducted under section 1932(c)(2) of the Act.

The provision relating to increased FFP will be effective after the Secretary establishes a method to identify qualified review entities. *See SSA 1932(c)(2)(A).*

BBA MANAGED CARE STATE LETTERS

Sections Subject Date Issued

4701(a) SPA Option for Managed Care 12/17/97

4704(a) Specification of Benefits 12/17/97

4707(a) Marketing Restrictions 12/30/97

4704 Miscellaneous Managed Care Provisions 12/30/97

4706

4707(a)

4707(c)

4708(b)

4708(c)

4708(d)

4701 Choice, MCE Definition, Repeal of 75:25, and Approval Threshold 1/14/98

4703

4708(a)